

No. 13940

**United States Court of Appeals
FOR THE NINTH CIRCUIT.**

JAMES ROLLAND FRANCY,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee.

REPLY BRIEF FOR APPELLANT

Appeal from the United States District Court
for the Southern District of California,
Central Division.

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MAY IT PLEASE THE COURT:

Rather than repeat here the information appearing in the appellant's reply brief filed in the companion case of *Clair Laverne White v. United States of America*, No. 13893, filed in this Court, references will be made to that brief.

I.

It is stated by appellee, at page 7 of its brief, that there was contradictory evidence disputing his statements in the file. The appellee refers to no particular part of the file to prove this assertion. The contention of appellee should be rejected because it is without basis in fact.

II.

The appellee argues, at page 8 of its brief, that the local board should be left to determine the qualification of the registrant for the exemption. No reasons are given for this assertion. This argument is answered in the reply brief of the companion case, *Clair Laverne White v. United States of America*, No. 13893, filed in this Court, under Point III.

III.

It is stated, at page 8 of appellee's brief, that there is no showing of arbitrariness and capriciousness in the classification. The I-A-O classification on its face is arbitrary and capricious. It is a compromise classification in the face of undisputed evidence showing Francy to be opposed to both combatant and noncombatant military service. For answer to this argument of appellee, see pages 16-22 of appellant's main brief.

IV.

Appellee argues, at pages 9-10 of its brief, that there was a presumption of regularity of administrative proceedings to support the action of the board, citing *Koch v. United States*, 150 F. 2d 762 (4th Cir.). The presumption of regularity of administrative proceedings does not exist where it is shown, as here, that the local board has violated the law, in denying Francy the right to have a full and complete discussion of the classification as guaranteed by Section 1624.2 (b) of the regulations.

CONCLUSION

It is submitted that the judgment of the court below should be reversed and the appellant ordered acquitted.

Respectfully,

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